

ENVIRONMENTAL PROTECTION AGENCY
Region V
Enforcement Division

US EPA RECORDS CENTER REGION 5



515046

TELEPHONE MEMO

TO : Erica Dolgin, Fred Steele, Frank Biros DATE: January 29, 1980
Dennis Devlin and Doug Johns

FROM : Melanie Toepfer and Bob Leininger TIME: 8:30

SUBJECT: REILLY TAR/negotiation strategy

On 1-22 during the course of the Task Force meeting, the above people (except for Erica) agreed that we should tell the US Attorney what our response to their offer of one million dollars ~~was~~ should be, but that we should get supervisor approval first. (Melanie and Bob talked to their respective section chiefs and also sent around a memo describing our proposal on 1-27).

The purpose of the above captioned conference call was to see whether we had a consensus on what to tell Berg after speaking to our supervisors. EPA headquarters and Region V personnel said that they got approval and Erica said that our proposal was OK. We also agreed that we should have Berg request that Reilly make available their financial data so that our economist could better estimate the amount of cleanup cost that Reilly could bear.

Biros said that she will be able to give us an initial estimate based on Dunn&Bradstreet, within the next few days.

Erica said that she is making some progress on the memo in opposition to dismiss which we will need if Reilly files its motion, and that she doesn't need any help.

Leininger has been trying to contact Berg today in order to advise him of our negotiation strategy but Berg has been unavailable. He will be advised as soon as he can be contacted.

006136

Gardebring Bryson Grimes/Schulteis Miner/Muno

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

DATE December 29, 1980

SUBJECT Reilly Tar Case

FROM: Sandra S. Gardebring
Director, Enforcement Division

TO: Kenneth Fenner, Chief
Water & Hazardous Materials
Enforcement Branch

Last week I received a call from Eldon Kaul, Chief Attorney at the Minnesota Pollution Control Agency. He was calling with regard to the Reilly Tar case and it was his understanding that Superfund created a new cause of action for cleanup. The State was interested in pursuing this theory and its portion of the litigation and has asked that we give a quick review of this issue and get back to them on whether we think Section 104 of Superfund creates such a cause. Please have Roger and one of our Superfund experts look into this matter immediately and get back to Eldon as soon as possible.

cc: D. Bryson
R. Grimes

→ Sub Q? - What type of action? A tort, etc.
Look at 104(c)(2), (3) how does role
of state affect ~~ability~~ creation of
state cause.

Comment - I would think state public nuisance,
police powers etc. would give plenty
of authority and that SF is really
a strictly Fed grant probably based on
~~police powers~~ ill clause.

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